

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

NEXTGEAR CAPITAL, INC. AND  
WESTLAKE FLOORING COMPANY, LLC,

*Plaintiffs,*

V.

DEALERS CREDIT EXPRESS, INC.,

*Defendant.*

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CIVIL ACTION NO. 3:17-cv-01012-M

**PLAINTIFFS' RESPONSE TO DEFENDANT'S OPPOSED MOTION FOR LEAVE TO  
FILE THIRD-PARTY COMPLAINT**

COMES NOW, Plaintiffs, NextGear Capital, LLC ("NextGear") and Westlake Flooring Company, LLC ("WFC"), and file this Response to Defendant's Opposed Motion for Leave to File Third-Party Complaint, and for cause would respectfully show the following:

**PLAINTIFFS' RESPONSE**

Plaintiffs, NextGear and WFC, herein referred to collectively as the Plaintiffs, file this response to Defendant's Opposed Motion for Leave to File Third-Party Complaint ("DCE's Motion"). Defendant's motion should be denied because the proposed third-party claims made by Defendant, Dealers Credit Express, Inc. ("DCE"), are not derivative of the claims made by Plaintiffs against DCE and, therefore, joinder is not proper under Federal Rule of Civil Procedure 14. Therefore, Plaintiffs respectfully request that the Court deny DCE's Motion and grant to Plaintiffs such other and further relief as the Court may deem just and proper.

**Respectfully submitted,**

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*Attorneys for NextGear and WFC*

**CERTIFICATE OF SERVICE**

Counsel for Plaintiffs certify that on August 10, 2017, the foregoing response was served on defendant Dealers Credit Express, Inc., by and through its counsel of record, Scott E. Stevens, at P.O. Box 3427, Longview, Texas 75606, via the Court's electronic service system.

/s/ Christopher V. Arisco  
Christopher V. Arisco

**CERTIFICATE OF CONFERENCE**

Counsel for the Plaintiffs certify that they conferred with counsel for Defendant, Dealers Credit Express, Inc., and were unable to reach an agreement on this Motion.

/s/ Alan B. Padfield  
Alan B. Padfield